

**STATE OF CALIFORNIA**  
**BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY**  
**DEPARTMENT OF BUSINESS OVERSIGHT**

TO: Hannes Tulving, Jr.  
750 W. 17<sup>th</sup> Street  
Costa Mesa, CA 92627

**DESIST AND REFRAIN ORDER**

**(For violations of Corporations Code sections 29520 and 29536<sup>1</sup>)**

The Commissioner of Business Oversight ("Commissioner") finds that:

1. At all relevant times, Hannes Tulving, Jr., ("Tulving") was a natural person, and the sole owner, operator, and control person of The Tulving Company, Inc. Tulving's last known business address is 750 W. 17<sup>th</sup> Street, Costa Mesa, CA 92627. During all relevant times, Tulving operated his business in the State of California.
2. The Tulving Company, Inc. ("Company") is a California corporation, incorporated in 1990. At all relevant times, the Company transacted business within and from the State of California, directly and indirectly through Tulving, himself. These business activities included offering to sell and to buy, and buying and selling, products meeting the definition of "commodity," as defined under section 29504, including, but not limited to, precious metals in the form of coins and bullion.
3. Beginning in or before February 2013, and continuing through February 2014, Tulving and the Company offered, bought, and sold commodities, commodity contracts, and commodity options in and from the State of California, including, but not limited to, precious metal coins and bullion in transactions with consumers both inside and outside California. In many of these transactions, Tulving and the Company failed to deliver the promised metal within 28 days, in violation of section 29520. In fact, in some cases, the metal was not delivered, at all.
4. Further, each and every such offer and sale was made in violation of section 29536, the anti-fraud provisions of the California Commodity Law, in that Tulving and the Company employed a

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<sup>1</sup> All statutory references are to the Corporations Code unless otherwise indicated.

1 device, scheme or artifice to defraud, namely the Company's website. Via the website and over the  
2 telephone, Tulving and the Company made materially untrue statements regarding the availability of  
3 the products and their shipping times. Further, Tulving and the Company misappropriated and  
4 converted the funds, security, and property of other persons.

5 5. Specifically, Tulving and the Company offered and sold commodities in California by  
6 representing both on the website and on the telephone that certain precious metals products were "in-  
7 stock" and that physical delivery of the commodities would be made to their customers by overnight  
8 shipping within five days of receipt of the wired funds for gold, and within ten days of receipt of the  
9 wired funds for silver. Tulving and the Company made this promise regarding prompt delivery in  
10 order to make these transactions appear compliant with state and federal law. The Company's  
11 website even stated that as a dealer, shipping outside the 28-day period would make Tulving and the  
12 Company commodities futures traders under the law, for which they held no license. Tulving and the  
13 Company repeatedly and systematically made these representations regarding delivery time on the  
14 Company's website, over the telephone, and in other public advertising.

15 6. Delivery time is an essential and material factor considered as part of the decision-making  
16 process of precious metals customers.

17 7. Despite the specific representations by Tulving and the Company regarding delivery time, in  
18 multiple transactions, Tulving and the Company failed to deliver the promised precious metals within  
19 28 days and, in most of these cases, precious metals were never delivered at all.

20 8. Tulving and the Company failed to deliver on over \$1,500,000.00 worth of precious metals in  
21 orders from California purchasers, alone.

22 9. In total, over \$18,000,000 worth of precious metals orders from all throughout the United  
23 States were never filled.

24 10. At all relevant times, neither Tulving, nor the Company, were licensed as commodities  
25 brokers. The offer and sale of commodities and commodities contracts were, therefore, all done in  
26 violation of section 29520.

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1 Based upon the foregoing, the Commissioner is of the opinion that Hannes Tulving sold,  
2 purchased, or offered to sell or purchase commodities under commodities contracts, or offered or  
3 entered into, as sellers or purchasers, commodity contracts in violation of section 29520.

4 Pursuant to section 29542, Hannes Tulving is hereby ordered to desist and refrain from the  
5 further offer and sale of commodities or commodities contracts and to desist and refrain from the  
6 further offer to enter into, or from entering into, as seller or purchaser, commodities contracts in the  
7 State of California, unless and until such activity is in compliance with section 29520.

8 Based upon the foregoing, the Commissioner is of the opinion that Hannes Tulving, directly  
9 or indirectly, in connection with the purchase or sale, or the offer to sell or buy a commodity or a  
10 commodity contract, employed a device, scheme or artifice to defraud, made untrue statements of  
11 material fact and omitted to state material facts necessary in order to make the statements made, in  
12 light of the circumstances under which they were made, not misleading, engaged in transactions, acts,  
13 practices and a course of business which operated as a fraud and deceit upon their customers and  
14 misappropriated and converted the funds, security and property of other persons all in violation of  
15 section 29536.

16 Pursuant to section 29542, Hannes Tulving is hereby ordered to desist and refrain from  
17 purchasing or selling or offering to purchase or sell commodities or commodities contracts and from  
18 offering to enter into or entering into commodities contracts in the State of California in violation of  
19 section 29536.

20 This order is necessary, in the public interest, for the protection of investors and consistent  
21 with the purposes, policies, and provisions of the California Commodity Law of 1990.

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23 Dated: February 17, 2016  
24 Sacramento, CA

JAN LYNN OWEN  
Commissioner of Business Oversight

25 By \_\_\_\_\_

26 MARY ANN SMITH  
27 Deputy Commissioner  
28 Enforcement Division